

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.1017 OF 2005
IN
NOTICE OF MOTION NO.3176 OF 2005
IN
SUIT NO.2891 OF 2005

Larsen & Toubro Limited.

Appellant

vs.

Giftsnpromotions.com India Pvt.Ltd.

Respondent

Mr.Virendra Tulzapurkar, Senior Counsel with
Mr.S.R.Trilokchandani i/b.M/s.M.K.Ambalal & Co. for the
appellant.

Mr.D.H.Mehta for the respondent.

CORAM : R.M. LODHA &
D.G. KARNIK, JJ.

DATED : 1st December 2005

P.C.

Heard.

2. Admit.

3. Mr.D.H.Mehta, advocate waives service for the
respondent.

4. Printing of paperbook dispensed with and the appeal
is heard finally at this stage.

5. The appeal deserves to be allowed on the short
ground that the learned motion Judge refused to grant
ad-interim relief on erroneous factual assumption. The
learned motion Judge proceeded with the matter as if the

Suit was filed for passing off their mark "LT", while according to the plaintiff the passing off action is in respect of their mark "Larsen & Toubro".

6. We do not deem it necessary to deal with the diverse aspects of the matter as, in our considered view, the matter requires to be reconsidered by the learned motion Judge whether the case of grant of ad-interim relief is made out by the plaintiff or not.

7. Consequently, we set aside the order dated 21.10.2005 and grant liberty to the plaintiff to apply afresh to the learned motion Judge for grant of ad-interim relief.

8. Needless to say that the contentions of both the parties are kept open to be considered by the learned motion Judge as and when plaintiff applied for ad-interim relief.

9. No costs.

(R.M.LODHA, J.)

(D. G. KARNIK, J.)